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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,050	02/25/2004	Yoshihiro Ichikawa	249460US2	8566

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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PANG, ROGER L

ART UNIT	PAPER NUMBER
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3681

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/30/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/30/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/785,050

Applicant(s)

ICHIKAWA ET AL.

Examiner

Roger L. Pang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The following action is in response to application 10/785,050 filed on February 25, 2004.

#### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Claim Objections***

Claims 1 and 7 are objected to because of the following informalities: in claim 1, on line 6, "lest" should be replaced with --least--; in claim 7, on line 18, "lest" should be replaced with --least--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, the last 6 lines are confusing, as it is unclear how the system "stops movement by driving the actuator and determining a portion at the movable member as a shift gate reference position at a time when the movement of the movable member stops." It appears that the system may stop or move in response to a variety of conditions, but as

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currently claimed, it is unclear if there is a response to conditions or if a list of controls is being claimed. The claims will be treated as best understood below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Berger

‘467. With regard to claim 1, Berger teaches a shift gate position determining system for a vehicle transmission comprising: a base portion supporting an engaging portion 560; at least one shift gate 302 to be engaged with and to be disengaged from the engaging portion, the at least one shift gate defining a vehicle shift stage; a movable member being movable 554 to engage the at least one shift gate with the engaging portion and to disengage the at least one shift gate from the engaging portion; an actuator 552 for moving the movable member in a direction for engaging the at least one shift gate with the engaging portion and for disengaging the at least one shift gate from the engaging portion; and the at least one shift gate including: a stabilizing range for stabilizing an engagement between the engaging portion and the at least one shift gate (Fig. 16), wherein the system stops movement of the movable member by driving the actuator and determines a portion at the movable member as a shift gate reference position at a time when the movement of the movable member stops Step 438, and wherein the system moves the movable

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member by driving the actuator, stabilizes the engaging portion in the stabilizing range, and determines the stabilizing position of the engaging portion as a position of the at least one shift gate Step 432. With regard to claim 2, Berger teaches the system, wherein the actuator is driven to intermittently move the movable member so as to position the engaging portion in the stabilizing range (Cols. 21-22). With regard to claim 3, Berger teaches the system, wherein the activation of the actuator stops when the movable member is moved (to the predetermined gate) and the activation of the actuator starts when the movement of the movable member is stopped (then begins movement). With regard to claim 4, Berger teaches the system; wherein the stabilizing range has a groove, and the engaging portion is engaged with and disengaged from the groove in response to the movement of the movable member (Fig. 16). With regard to claim 6, Berger teaches the system, wherein the shift gate reference position is determined by impacting the movable member 554 with the base portion 560.

Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Itoh '568.

With regard to claim 1, Itoh teaches a shift gate position determining system for a vehicle transmission comprising: a base portion supporting an engaging portion 42; at least one shift gate 31 to be engaged with and to be disengaged from the engaging portion, the at least one shift gate defining a vehicle shift stage; a movable member being movable 50 to engage the at least one shift gate with the engaging portion and to disengage the at least one shift gate from the engaging portion; an actuator 8 for moving the movable member in a direction for engaging the at least one shift gate with the engaging portion and for disengaging the at least one shift gate from the engaging portion; and the at least one shift gate including: a stabilizing range for stabilizing an

engagement between the engaging portion and the at least one shift gate, wherein the system stops movement of the movable member by driving the actuator and determines a portion at the movable member as a shift gate reference position at a time when the movement of the movable member stops S18, and wherein the system moves the movable member by driving the actuator, stabilizes the engaging portion in the stabilizing range, and determines the stabilizing position of the engaging portion as a position of the at least one shift gate (Fig. 7). With regard to claim 2, Itoh teaches the system, wherein the actuator is driven to intermittently move the movable member so as to position the engaging portion in the stabilizing range (Fig. 7). With regard to claim 3, Itoh teaches the system, wherein the activation of the actuator stops when the movable member is moved S18, and the activation of the actuator starts when the movement of the movable member is stopped (Fig. 7). With regard to claim 4, Itoh teaches the system, wherein the stabilizing range has a groove, and the engaging portion is engaged with and disengaged from the groove in response to the movement of the movable member (Fig. 5). With regard to claim 5, Itoh teaches the system, wherein the groove has a V-shaped cross section (Fig. 5). With regard to claim 6, Itoh teaches the system, wherein the shift gate reference position is determined by impacting the movable member 42 with the base portion 50.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berger as applied to claim 4 above, and further in view of Jackson '645. Berger teaches the system, but lacks the teaching of said groove having a V-shaped cross section. Jackson teaches a position detection mechanism for a transmission shift member comprising an engaging element 22 and a v-shaped groove 32. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Berger to employ a V-shaped groove in view of Jackson in order to provide a more simplified groove.

***Allowable Subject Matter***

Claims 7-17 are allowed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Neubauer, Kamiya and Miyazaki have been cited to show similar transmission shifting mechanisms and controls.

### FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.



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Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on \_\_\_\_\_ (Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_  
\_\_\_\_\_

(Signature)


If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Roger L. Pang  
Primary Examiner  
Art Unit 3681

March 27, 2007